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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,634	11/15/2001	Minoru Kubota	Q67291	7418

7590

07/11/2003

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EXAMINER

LUEBKE, RENEE S

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/987,634

Applicant(s)

KUBOTA &amp; SERIZAWA

Examiner

Renee S. Luebke

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2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The substitute formal drawings were received on June 24, 2003. These drawings are approved by the examiner.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor, et al. in view of Date, et al. The oscillating switch of Nestor comprises a lower casing 70, 46, 41 a circuit member 58 with a hole on each edge, rubber contact portions 54, 54, an upper casing 39, 41, an operating knob 12 having pressing portions 22, 24 that form a slanting angle (see figs. 2 and 3), and a click mechanism. The click mechanism includes a cam surface 48, 50, 52 on the lower casing, a pressing element 30 and an urging member 28 which passes through the holes of the circuit member. The switch of Nestor lacks a rubber switch member having a through hole since the rubber contact portions are individually arranged. However, the similar switch of Date teaches the use of contact portions that are connected by an integrally formed rubber switch member having a through hole. The use of a connecting rubber switch member allows more accurate and faster placement of the rubber contact portions. For this reason it would have been obvious to attach the rubber contact portions of Nestor with a rubber switch member as taught by Date.

Applicant argues that Nestor fails to teach or disclose a substrate with a through hole. However, the central notch that allows the member 28 to pass through forms a through hole that is located just below hole 43 when the circuit member and base 70 are assembled. If it were not a hole, the member 28 would not fit.

Applicant further argues that Nestor fails to show a cam surface on the operating knob or the lower casing. However, the lower casing comprises the

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lower part of the housing (i.e. the walls, etc below the member 41) and the cam surfaces 48, 50, 52 are formed on a portion of the wall (as seen in the figures).

4. Claim 2 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor and Date as applied to claim 1 above, and further in view of Ogawa, et al. as previously discussed and not separately argued by applicant.

5. Claims 5 and 6 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor and Date, and further in view of Ogawa, et al. As seen in the figures, the operating portion 28 of Nestor is at the center of the knob 12. In regard to claim 6, the cam surface forms a v-shaped cross section.

6. Claims 7-10 also are rejected under 35 U.S.C. 103(a) as being unpatentable over Nestor and Date, and further in view of Ogawa, et al. The details of these claims – the coil spring and slidable pin (see Fig. 5), the steel ball and the initial non-operating position (see fig. 11) – are features of the urging member and cam arrangement of Ogawa that was previously indicated to have been an obvious alternative.

7. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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**8. It is suggested that responses to this final action be faxed to:**

(703) 872-9319 or 308-7722, 308-7724

Please refrain from sending a confirmation copy, as noted in 37 CFR 1.6(d) and 1.8(b).

For formal communications, please mark "EXPEDITED PROCEDURE."

For informal or draft communications please clearly label "PROPOSED" or "DRAFT."

**Alternatively, responses may be mailed to:**

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

**Hand-delivered responses** should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)

2201 South Clark Place, Arlington, Virginia.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.



Renee S. Luebke  
Primary Patent Examiner  
July 10, 2003